

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

Jun 17, 2020

SEAN F. McAVOY, CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

Plaintiff,

v.

JOSE ANTONIO MENDOZA,

Defendant.

NO: 2:20-CR-61-RMP-1

STIPULATED PROTECTIVE
ORDER RE: COMPUTER
FORENSIC REVIEW
PROCEDURES FOR CHILD
PORNOGRAPHY CONTRABAND

BEFORE THE COURT is the Government's Motion for Protective Order re Computer Forensic Review Procedures for Child Pornography Contraband, ECF No. 19. Defendant opposed the motion, and a hearing was set for June 15, 2020, to resolve the motion. However, on June 15, 2020, prior to the hearing, the parties reached an agreement regarding the scope of the proposed protective order, and the hearing was cancelled. The parties have since submitted a Stipulated Protective Order re Computer Forensic Review Procedures for Child Pornography Contraband, ECF No. 23. The Court finds good cause to grant the Government's Motion for Protective Order, ECF No. 19, and to enter the requested Stipulated

STIPULATED PROTECTIVE ORDER RE: COMPUTER FORENSIC REVIEW
PROCEDURES FOR CHILD PORNOGRAPHY CONTRABAND ~ 1

1 Protective Order.

2 Accordingly, **IT IS HEREBY ORDERED:**

- 3 1. The Government's Motion for a Protective Order re: Computer
4 Forensic Review Procedures for Child Pornography Contraband,
5 **ECF 19**, as amended by the stipulation at ECF No. 23, is
6 **GRANTED.**
- 7 2. 18 U.S.C. § 3509(m) applies to this case, and the Court is required
8 to deny defense requests to copy, photograph, duplicate, or
9 otherwise reproduce material constituting child pornography if the
10 Government makes the material reasonably available to the
11 Defendant and provides an ample opportunity for the defense to
12 examine it at a Government facility. *See* 18 U.S.C. § 3509(m).
- 13 3. In order to comply with 18 U.S.C. § 3509(m), and to allow the
14 Defendant the greatest opportunity to prepare an effective defense
15 in preparation for trial in this matter, the Government will make a
16 true forensic, bit by bit E01 image of devices and media containing
17 alleged child pornography contraband at issue in the above-
18 referenced case. The Government will make that forensic copy
19 reasonably available to the Defendant and provide ample
20 opportunity for the defense team to examine it at a Government
21 facility in Spokane, Washington.

1 4. The computer forensic examination of the forensic copy may be
2 conducted at the office of Homeland Security Investigations
3 ("HSI"), 411 W. Cataldo Ave., Spokane, Washington 99201,
4 Phone (509) 329-5135, during regular business hours Monday
5 through Friday 8:00 a.m. to 3:00 p.m. PST. The parties may
6 readdress the Court if there is a need for additional or after-hours
7 access during the course of litigation in the event trial or motion
8 hearings require additional forensic review. The defense forensic
9 examination will be conducted in an interview room monitored by
10 Closed Circuit (CC) TV, without audio feed. While the TV with
11 non-audio feed will ensure the integrity of HSI space and security
12 of its occupants, the video feed is not of sufficient detail or at an
13 angle that would reveal defense strategy. The Government and its
14 agents expressly agree that no attempt will be made to record any
15 audio from the workstation and that no attempt will be made to
16 observe the defense team's work product or computer monitor
17 screen at any time. The defense expert may review the feed to
18 ensure that their strategy is not being compromised at any time
19 while conducting the forensic review.

- 1 5. The defense team¹ shall not make, nor permit to be made, any
2 copies of the alleged child pornography contraband pursuant to this
3 Protective Order and shall not remove any contraband images from
4 the Government facility. Defense expert will be allowed to copy
5 any file that is not contraband and compile a report (without
6 contraband images/videos) documenting the examination on
7 removable media at the discretion of the defense expert.
- 8 6. The defense expert, Jennifer McCann, will leave any equipment,
9 including hard drives, which contain contraband child pornography
10 as a result of any forensic evaluation conducted in this matter at the
11 above HSI facility. The parties may readdress this matter with the
12 Court upon notice that the defense intends to retain a different
13 defense expert.
- 14 7. For the purposes of trial, the Government agrees to provide a
15 digital copy of any Government trial exhibit that contains
16 contraband which will be kept in the custody and control of the
17 case agent. Upon notice by the defense, the case agent will also
18 maintain for trial digital copies of any proposed defense exhibits

19 ¹ For purposes of this Protective Order, the term “defense team” refers solely to the
20 Defendant’s counsel of record, Andrea K. George (“defense counsel”), the
21 Defendant’s designated expert (“defense expert”), and a defense investigator.

1 that contains contraband. If the defense team intends to offer,
2 publish, or otherwise utilize any Government or defense exhibit
3 contained on the digital copy maintained by the case agent during
4 trial, the case agent shall assist the defense team in publishing or
5 utilizing the exhibit that contains contraband once notified of such
6 by the defense team.

7 **IT IS SO ORDERED.** This District Court Clerk is directed to enter this
8 order and provide copies to counsel.

9 **DATED** June 17, 2020.

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11 *s/ Rosanna Malouf Peterson*
12 ROSANNA MALOUF PETERSON
13 United States District Judge
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